

# **SUBDIVISION REGULATIONS**

**City of Burlington**

**Burlington, North Carolina**

**Effective Date**

**August 21, 1979**

## **CHAPTER 33**

### **LAND SUBDIVISION REGULATIONS FOR THE CITY OF BURLINGTON**

#### **AND ITS EXTRATERRITORIAL JURISDICTION**

**AN ORDINANCE regulating the subdivision of land within the City of Burlington, North Carolina, and its duly established extraterritorial jurisdiction for the orderly growth and development of the City; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas in accordance with a Comprehensive Plan; for the dedication or reservation of rights-of-way or easements for street and utility purposes; for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety and the general welfare; for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with municipal policies and standards; for the reservation of school sites in accordance with a Comprehensive Plan approved by the City Council and the Burlington Planning Commission; for requiring preliminary and final plats and setting forth specifications for preparation of same including requirements that the final plat show sufficient data to determine readily and reproduce accurately on the ground the location, bearing and length of every street and alley line, lot line, easement boundary line and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice; for requiring and setting forth procedures for approval of plats; and for requiring that final plats be recorded.**

#### **SECTION 33-1: DEFINITION OF SUBDIVISION** (Amendment adopted March 3, 1981)

**Subdivision as used in this chapter means all divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets or the rearrangement of an existing lot or lots so as to front on another street or streets from that on which they originally fronted regardless of the number of lots so involved; but the following shall not be included within this definition provided, however, that any subdivision document or plat to be recorded pursuant to such exclusions shall have the notation of "No Approval Required" and the signature of the Planning Director or his designated agent before filing in the office of the Alamance County Register of Deeds.**

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in these Subdivision Regulations.**
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.**
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets.**
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way or easement dedication is involved and where the resultant lots equal or exceed the standards set forth in these Subdivision Regulations and in the Zoning Ordinance of the City of Burlington.**
- (5) The trading or exchanging of portions of previously platted and recorded properties that are contiguous and that necessitate the creation of parcels not conforming to the requirements of this chapter provided that a statement is placed on the plat to be recorded to the effect that such parcels are not created as individual building lots and are not approved as such and that no building permit shall be issued for construction on such parcels.**

#### **SECTION 32-2: APPROVAL OF SUBDIVISION PLATS REQUIRED**

**From and after the date of filing of a copy of this chapter with the Alamance County Register of Deeds, no subdivision plat of land within the City of Burlington jurisdiction, as stated herein, shall be filed or recorded until it shall have been submitted to and approved by the City Council after approval and recommendation by the Burlington Planning and Zoning Commission and such approvals entered in writing on the plat by the Chairman of the Planning and Zoning Commission and the City Clerk. The Alamance County Register of Deeds, upon receipt of a copy of this chapter, shall not thereafter file or record a plat of a subdivision of land located within the jurisdiction of the City of Burlington, as defined herein, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section. The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the Subdivision Regulations jurisdiction of the City.**

### **SECTION 33-3: EFFECT OF PLAT APPROVAL ON DEDICATIONS**

The approval of a plat shall not be deemed to constitute or effect the acceptance by the City or the public of the dedication of any street or other ground, public utility line or other public facility shown on the plat. However, the City Council may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other public purposes when the lands or facilities are located within its Subdivision Regulations jurisdiction. Acceptance of dedication of lands or facilities located within the Subdivision Regulations jurisdiction but outside the corporate limits of the City shall not place on the City any duty to open, operate, repair or maintain any street, utility line or other land or facility, and the City shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.

### **SECTION 33-4: PERMITS, ETC., NOT TO BE ISSUED UNTIL PLAT APPROVED**

No street shall be accepted and maintained by the City nor shall any street lighting, water or sewer be extended to or connected with any subdivision of land nor shall any permit be issued by an administrative agent or department of the City for the construction of any building or other improvement requiring a permit upon any land concerning which a plat is required to be approved unless and until the requirements set forth in this chapter have been complied with and the same approved by the City Council.

### **SECTION 33-5: OTHER DEFINITIONS**

Words and phrases used in this chapter shall have the meaning or meanings set forth as follows. Words and phrases not herein defined shall have their customary dictionary meanings where such meanings are not inconsistent with the context and intent of this chapter. When not inconsistent with the context and intent of this chapter, words used in the singular shall include the plural, and words used in the present tense shall include the future. The term "shall" is mandatory throughout this chapter.

- a. **Lots**: A parcel, piece, portion or tract of land separated from other parcels, pieces, portions and tracts of land by description on a subdivision plat or any plat recorded or to be recorded in the office of the Register of Deeds or any description by metes and bounds or other means.

- b. **Lot, Corner:** A lot having frontage on two or more streets at their intersection.
- c. **Lot Frontage:** The distance for which the front boundary line of a lot and the street line are coincident. In the case of corner lots, this shall be the street boundary line having the shortest distance coincident with a street line.
- d. **Lot, Through:** A lot having frontage on two parallel or approximately parallel streets.
- e. **Lot Width:** The horizontal distance between the side lot lines of a lot measured at the front setback line as required by the Burlington Zoning Ordinance.
- f. **Planning Commission:** The Burlington Planning and Zoning Commission.
- g. **Right-of-Way:** Property devoted to road or street purposes.
- h. **Roadway:** The paved portion of right-of-way over which vehicular traffic travels.
- i. **Street:** A way for vehicular traffic, whether designated as an alley, avenue, boulevard, court, expressway, freeway, highway, lane, parkway, place, road, street, thoroughfare, thoroughway or however otherwise designated. For the purposes of this chapter, streets are divided into the following categories:
  - 1. **Expressways:** Those streets used or to be used primarily to carry traffic and having few points of access and no intersections at grade and designated or to be designated as expressways on the Thoroughfare Plan of the City of Burlington.
  - 2. **Major Thoroughfares:** Those streets used or to be used primarily for fast and/or heavy traffic and having limited points of access, intersections at grade, controlled access to abutting property, no on-street parking and designated as major thoroughfares in the Thoroughfare Plan of the City of Burlington.
  - 3. **Minor Thoroughfares:** Those streets that carry traffic between local access streets and major thoroughfares, supplement major thoroughfares by carrying some minor through-traffic movements, allow access to abutting property and on-street parking and are designated as minor thoroughfares on the Thoroughfare Plan of the City of Burlington.

4. **Local Access Streets:** Those streets which are used primarily for access to abutting properties. Local access streets are divided into several categories as follows:
- a. **Residential Streets:** Residential streets provide access to abutting residential property and discourage through-traffic movements by design as short loops, curvilinear streets or cul-de-sacs. These streets have two traffic lanes and may have on-street parking.
  - b. **Commercial Streets:** Commercial streets provide access to abutting commercial property, circulate traffic in commercial areas and provide direct access to off-street parking facilities. Commercial streets have at least two traffic lanes with provisions for curb parking if desirable and feasible.
  - c. **Industrial Streets:** Industrial streets provide access to abutting industrial development and are adequately designed to accommodate large trucks. At least two traffic lanes are provided.
  - d. **Frontage Streets:** A local access street that parallels and is adjacent to expressways or major thoroughfares for the purposes of providing access to abutting properties and separation of traffic seeking such access from through-traffic.
  - e. **Alley:** A local access street used for service access to the back or side of properties otherwise abutting on a street.
  - f. **Cul-de-Sac:** A local access street having access from one end only and having a circular or other expanded surface for turning around at the closed end.
- (j) **Subdivider:** A person, firm or corporation having a proprietary interest in land and acting to subdivide that land under the provisions of this chapter.
- (k) **Subdivision:** (Also Section 33-1 above)
- 1. **Class A:** All subdivisions other than **Class B** subdivisions as outlined below.
  - 2. **Class B:** All subdivisions that meet all of the following criteria: (Amendment adopted March 3, 1981)

- a. All subdivided lots must have direct access to an existing public street right-of-way.
- b. Existing public water and sewer services must be directly available to each lot or be capable of being provided to each lot with simple extensions of the water mains and/or sewer lines providing service to adjacent properties and be in accordance with the water and sewer extension policies of the City of Burlington.
- c. The Engineering Department makes a determination that the subdivision and eventual development of the property will not adversely affect the drainage characteristics of adjacent property.

#### **SECTION 33-6: PROCEDURE FOR APPROVAL OF PLATS**

##### **(a) Pre-Application Procedure**

1. **Filing:** Prior to the filing of an application for preliminary approval of a subdivision, a subdivider shall submit to the Planning Department plans and data for a proposed subdivision as specified in Section 33-7 of this chapter. This step does not require formal application or payment of fees.
2. **Review:** The Planning Director shall submit copies of the plans and data to the City Engineering Department and, in the extraterritorial jurisdiction, to county departments, as appropriate. These departments shall review the plans and shall submit comments to the Planning Director within five working days. Within ten working days of receipt of plans and data, the Planning Director shall inform the subdivider as to whether or not the proposed subdivision meets the objectives and requirements of this chapter and as to how said objectives may be met. All review during the pre-application procedure shall be carried out by the Planning Department and Engineering Department staffs, and no hearing before the Planning Commission or the City Council is intended by this chapter to be required.
3. **Classification:** Following review of the plans and data, the Planning Director shall determine the classification of the subdivision according to the definitions outlined in Section 33-5 of these regulations.

For those subdivisions determined to be Class A, the information concerning *Procedure for Preliminary Approval of Subdivision Plan* and *Procedure for Approval of Final Plats* as outlined below should be followed in detail. For those subdivisions determined to be Class B, the preliminary plan and final plat may be submitted for approval at the same time, thereby expediting the approval process for those subdivisions that will not require any street right-of-way or major utility improvements. The Planning Director may waive the requirement for a preliminary plan for Class B subdivision if it is determined that the additional information that would be provided on such a plan is not necessary for consideration of approval of the final plat. All fees and other approval requirements as noted below are mandatory. (Amendment adopted March 3, 1981)

4. **Advice to Subdivider:** The purpose of the pre-application procedure is to afford the subdivider an opportunity to avail himself of technical advice and assistance and to consult informally with the City staff before preparation of the preliminary plan and before formal application for its approval in order to allow the subdivider to save time and money and to make the most of his opportunities for development of property.

(b) **Procedure for Preliminary Approval of Subdivision Plan**

1. **Application:** Written application for approval of a preliminary plan shall be made on proper forms to be furnished by the Planning Department in the Planning Department office and shall include all information as specified in Section 33-7 and elsewhere in this chapter. Such application shall be made not less than ten working days prior to any meeting of the Planning Commission at which such application is requested to be considered. Ten copies of the preliminary plan shall be filed with the Planning Department at the time of application. Such application should be made no less than ten working days prior to any meeting of the Planning Commission at which such application is requested to be considered. For those subdivisions located within the extraterritorial jurisdiction of the City in which street rights-of-way are to be dedicated, a copy of the preliminary plan and all engineering data shall be forwarded to the North Carolina Department of Transportation for its review and approval. (Amendment adopted December 16, 1986)



**2. Review by Planning Commission** (Amendment adopted March 3, 1981)

- a. Following a review of the preliminary plan and all other material submitted for conformity thereof to this chapter, the Planning Department shall submit to the Planning Commission at its next regularly scheduled meeting the proposed subdivision together with the recommendation of the reviewing departments. If the proposed subdivision requires acquisition of easements and/or rights-of-way for installation and construction of sewer lines, sewer outfalls or other utilities on adjacent properties, these recommendations shall include a written statement from the Engineering Department indicating whether or not the City foresees any excessive delays in obtaining such required easements and/or rights-of-way.**
- b. The Planning Commission shall, within 45 days after its meeting at which the preliminary plan is considered, take action to approve, to approve with contingencies, or to disapprove the preliminary plan. Disapproval may be given based upon failure to comply with any or all requirements of this chapter.**
- c. The action of the Planning Commission shall be expressed in writing, a copy of which shall be sent to the subdivider. This notice shall include a copy of the recommendations from the Engineering Department concerning the provision of utility connections. The subdivider will therefore be aware of any possible delays in the provision of such services. One copy of the notice of action taken shall be retained permanently in the files of the Planning Department.**
- d. Preliminary approval of a subdivision plan shall not constitute approval of the final plat. Such preliminary approval shall be deemed an expression of approval of layout and manner of development of a subdivision and an authorization for the subdivider to proceed with development in accordance with the approval granted.**

- e. **Preliminary approval of a subdivision plan shall apply for one year. Where a subdivision is being developed in sections, the one year shall be counted from the date of the most recent final approval granted to a portion of the subdivision. A subdivider may request and the Planning Commission may grant an extension of time for good cause; however, preliminary approval of a subdivision plan shall never extend for a period of more than four years from the date of first approval. The Planning Commission shall terminate a preliminary approval of a subdivision plan after one year unless formal request for an extension of time is made.**
- 3. **Improvements, Markers, Monuments Prohibited Prior to Approval: No improvements shall be made nor shall any permanent markers or monuments be installed in any subdivision prior to the granting of approval of a preliminary subdivision plan.**
- 4. **Fee: At the time of application for a preliminary approval of the subdivision plan, the subdivider shall pay a fee as established from time to time by the City Council. (Amendment adopted June 2, 1987)**

**(c) Procedure for Approval of Final Plats**

- 1. **Application: Written application for approval of the final plat shall be made in the office of the Planning Department by the subdivider on forms to be provided by the department. The application shall be accompanied by all required exhibits and shall contain authorization for the City Engineering Department to record the final plat and protective covenants (if any) after approval of the final plat and shall include all information required in Section 33-7 and elsewhere in this chapter. Such application shall be made not less than ten working days prior to any meeting of the Planning Commission at which such application is requested to be considered. At the time of application for approval of a final plat, the subdivider shall pay a fee as established from time to time by the City Council. (Amendment adopted June 2, 1987)**

2. **Copies, Fee, Required Information:** An original, a linen or mylar copy and a sepia transparency and ten copies of the final plat shall be filed with the Planning Department at the time of application. At the time of filing a final plat, a subdivider shall pay a fee equal to the cost of recording the final plat and all required accompanying documents. The final plat shall conform substantially to the preliminary plan as approved. A final plat may constitute any portion of the approved preliminary plan containing ten or more lots provided that the portion submitted conforms to all requirements of this chapter and provided further that any portion submitted for final approval shall include the lots on both sides of any streets shown on the final plat. This requirement for ten or more lots will be waived if the subdivider receives prior approval from the Planning Commission.
3. **Subdivider To Be Notified of Time and Place for Consideration of Application:** Prior to considering the application for approval of a final plat, the Planning Department shall notify the subdivider of the time and place at which the application will be considered by the Planning Commission.
4. **Recommendations, Bases for Disapproval:** Following a review of the final plat and all other material submitted in compliance with this chapter, the Planning Department shall submit to the Planning Commission at its next regularly scheduled meeting the proposed final plat together with the recommendation of the reviewing departments. The Planning Commission shall, within 45 days after its meeting at which the final plat is considered, take action to approve or to recommend to the City Council disapproval of the final plat. The Commission shall then forward the final plat and all exhibits thereto to the City Council for final action at its next regularly scheduled meeting following final action by the Planning Commission. A final plat may be disapproved by the Planning Commission and/or the City Council for failure to comply with any or all requirements of this chapter, for failure to conform substantially to the preliminary plan as approved, for failure to fulfill contingencies placed upon the preliminary approval of the preliminary plan or for other reasons permitted under this chapter and other laws.

**5. Conditions for Approval:** (Amendment adopted April 21, 1987)

**a. Residential Subdivisions.** The City Council shall not approve any final plat of a residential subdivision until both of the following two conditions have been met:

**1. All necessary easements and/or rights-of-way have been obtained for providing off-site sewer outfalls, streets, water mains or other facility connections between existing services and those services within the proposed subdivision. It is the responsibility of the subdivider to make arrangements for obtaining these necessary easements and/or rights-of-way. If the subdivider, after due diligence and reasonable effort, is unable to obtain the necessary easements, the City Council, in its discretion and upon application by the subdivider to the City Council, may assist the subdivider, using its power of eminent domain in obtaining such easements and/or rights-of-way; and, (Amendment adopted November 18, 2003)**

**2. The subdivider has either:**

**(i) Installed all required water mains, sanitary sewer lines and storm drainage facilities, completed construction of all necessary street improvements including grading, paving, curb and gutter, sidewalks and grass plots and received certified inspection approval of the above improvements by the City Engineer, or,**

**(ii) Installed all required storm drainage facilities, water mains and sanitary sewer lines, completed rough grading of all streets to approved engineering standards and received certified inspection approval of these improvements by the City Engineer; and the subdivider has completed (and received inspection approval for) or arranged assurances for completion of all of the remaining improvements (grading, paving, curb and gutter and sidewalks and grass plots as needed) by either providing a letter of credit guaranteed by a state or federal chartered bank/savings and loan, cashier's check, cash or performance bond to the City in an amount equal to 125% of the estimated cost of the remaining improvements; or by petitioning the City for installation and/or construction of the remaining improvements in accordance with the assessment provisions as established by the Charter of the City, Chapter VI, *City Services and Facilities*, Sub-Chapter C, *Assessments for Local Improvements*. The subdivider must provide financial compensation to the City before construction begins in an amount equal to that portion of the cost of the improvements apportioned to the subdivider.**

(Amendment adopted February 7, 2006)

- (iii) For projects of 200 acres or more, a developer may request that a proposed subdivision of property be reviewed under the provisions of special "large tract" subdivision regulations that permit approval under the following circumstances: (Amendment adopted November 18, 2003)

- A. A Primary Infrastructure Phase of improvements is proposed that will provide for the necessary public infrastructure to serve and create large parcels that abut a public street right-of-way and are five acres or greater in size, and if desired, provide for the purchase of such parcels by other developers.
- B. The construction of the necessary infrastructure improvements to serve the Primary Infrastructure Phase of the project may be initiated in a manner that will meet the requirements of a typical subdivision project.
- C. However, if desired by the developer, surety in the amount of 150% of the estimated total public infrastructure cost can be submitted to the City for approval prior to the inception of construction to guarantee completion of water, sewer, storm drainage and roadway infrastructure within the Primary Infrastructure Phase of development. This surety obligation may be met by providing a letter of credit guaranteed by a state or federal chartered bank/savings and loan, cash, a cashier's check, certified check or performance bond in the appropriate amount and by a company authorized to do business in North Carolina. (Amendment adopted February 7, 2006)

This decision to provide surety can also be made at any time after the initiation of construction activities provided that surety is submitted and approved for the balance of the remaining work in the Primary Infrastructure Phase.

D. Thereafter, a subdivision plat may then be approved and recorded for the Primary Infrastructure Phase thereby creating large parcels each of which can then be developed as a separate tract or further subdivided thereafter in conformance with the City's traditional subdivision regulations. No surety in lieu of construction can be provided for any portion of the public infrastructure improvements within any of these large parcels until all of the public infrastructure improvements for the submitted Primary Infrastructure Phase have been completed and accepted by the City.

b. Commercial and/or Industrial Subdivisions. The City Council shall not approve any final plat of a commercial and/or industrial subdivision until both of the following two conditions have been met:

1. All necessary easements and/or rights-of-way have been obtained for providing off-site sewer outfalls, streets, water mains or other facility connections between existing services and those services within the proposed subdivision. It is the responsibility of the subdivider to make arrangements for obtaining these necessary easements and/or rights-of-way. If the subdivider, after due diligence and reasonable effort, is unable to obtain the necessary easements, the City Council, in its discretion and upon application by the subdivider to the City Council, may assist the subdivider, using its power of eminent domain in obtaining such easements and/or rights-of-way; and, (Amendment adopted November 18, 2003)

2. The subdivider has either:

(i) Installed all required water mains, sanitary sewer lines and storm drainage facilities, completed construction of all necessary street improvements including grading, paving, curb and gutter, sidewalks and grass plots, and received inspection approval of the above improvements by the City Engineer, or,

(ii) Provided assurances for the completion of all proposed improvements, including but not limited to the items specified in (i) directly above by submitting to the City a letter of credit guaranteed by a state or federal chartered bank/savings and loan, certified check, cashier's check, performance bond or cash in an amount determined by the City Engineer to be equal to 125% of the estimated cost of all of the remaining improvements. (Amendment adopted February 7, 2006)

(iii) For projects of 200 acres or more, a developer may request that a proposed subdivision of property be reviewed under the provisions of special "large tract" subdivision regulations that permit approval under the following circumstances: (Amendment adopted November 18, 2003)

- A. A Primary Infrastructure Phase of improvements is proposed that will provide for the necessary public infrastructure to serve and create large parcels that abut a public street right-of-way and are five acres or greater in size, and if desired, provide for the purchase of such parcels by other developers.
- B. The construction of the necessary infrastructure improvements to serve the Primary Infrastructure Phase of the project may be initiated in a manner that will meet the requirements of a typical subdivision project.
- C. However, if desired by the developer, surety in the amount of 150% of the estimated total public infrastructure cost can be submitted to the City for approval prior to the inception of construction to guarantee completion of water, sewer, storm drainage and roadway infrastructure within the Primary Infrastructure Phase of development. This surety obligation may be met by providing a letter of credit guaranteed by a state or federal chartered bank/savings and loan, cash, a cashier's check, certified check or performance bond in the appropriate amount and by a company authorized to do business in North Carolina. (Amendment adopted February 7, 2006)

This decision to provide surety can also be made at any time after the initiation of construction activities provided that surety is submitted and approved for the balance of the remaining work in the Primary Infrastructure Phase.

- D. Thereafter, a subdivision plat may then be approved and recorded for the Primary Infrastructure Phase thereby creating large parcels each of which can then be developed as a separate tract or further subdivided thereafter in conformance with the City's traditional subdivision regulations. No surety in lieu of construction can be provided for any portion of the public infrastructure improvements within any of these large parcels until all of the public infrastructure improvements for the submitted Primary Infrastructure Phase have been completed and accepted by the City.

- c. **Subdivisions which include provisions for the creation of lots for both residential and non-residential uses within the same development shall comply with the requirements for residential subdivisions set forth in a. above.**
  - d. **In commercial and industrial subdivisions where final plats are approved based on deposits being made for completion of improvements, Certificates of Occupancy shall not be issued for a building until all water and sewer improvements are complete and the building is connected to same.**
- 6. **Decision To Be In Writing: The action taken by the Planning Commission and subsequently by the City Council shall be expressed in writing, a copy of which shall be sent to the subdivider. One copy of the notice of action taken shall be retained in the permanent files of the Planning Department.**
- 7. **Required Signatures Upon Approval: The original of the final plat shall, upon approval, be signed by the Chairman of the Planning Commission and by the City Clerk.**
- 8. **Recording of Documents: All final plats together with protective covenants and any other required documents shall be recorded in the office of the Alamance County Register of Deeds by the Engineering Department within ten days after approval by the City Council. If more than 60 days elapse following approval of the final plat by the City Council and the plat has not yet been recorded, the final plat shall become void. If the final plat is not approved, the recording fee will be returned to the subdivider.**
- 9. **Offering of Lots for Sale: The subdivider may offer lots for sale to the public following recording of the final plat.**
- 10. **Certificates of Occupancy: Certificates of Occupancy will be issued following completion and satisfactory inspection of the dwelling unit construction.**



**SECTION 33-7:                    REQUIREMENTS FOR PLATS AND DATA TO BE  
SUBMITTED AND PROVISION FOR INSPECTION**

**(a)   Pre-Application Plan and Data**

**The following information only is required:**

- 1.      Boundary survey to scale of one inch equals 200 feet or larger.**
- 2.      Pencil sketch layout of streets, lots and reserve areas.**
- 3.      General locations for water and sewer mains and drainage facilities.**

**(b)   Preliminary Plan and Data**

- 1.      Plan: Preliminary plans shall be drawn to a scale no smaller than one inch equals 200 feet. Where large areas are being planned, they may be drawn on one or more sheets that shall not exceed 36 by 48 inches in size. For small areas being planned, a scale of one inch equals 100 feet shall be used, provided that the drawing shall not exceed 36 by 48 inches in size. Even though a subdivider intends to subdivide only a portion of a large tract of land initially, the preliminary plan shall show a proposed street and lot layout, contours, drainage plan and other requirements for the entire parcel or tract of land in which such portion is contained. The Planning Commission may, upon recommendation of the Planning and Engineering Departments, waive this requirement upon a finding that such a complete layout is not necessary to carry out the intent and purposes of these regulations. The following information shall be required on each plan:**
  - a.      The courses and distances of the exterior perimeter of the land involved and of all existing property lines. The courses shall be marked as to whether they are actual field observations or computed courses.**
  - b.      Accurate reference to a known point or points, such as street intersections, railroad crossings, and/or U.S. Government monuments.**

- c. **Within every subdivision, there shall be established one or more perimeter corners that shall be designated as control corners, and there shall be established two or more street center lines or offset lines within or on the street right-of-way lines that shall be permanently monumented at intersecting center lines or offset lines, points of curvature or such other control points. These monuments shall also be designated as control corners, and there shall be affixed or placed on all control corners permanent markers that shall be of such material and affixed to the earth in such a manner as to insure as great a degree of permanence as is reasonably practical.**
- d. **The acreage of the land involved.**
- e. **The names of all adjoining subdivisions with lines of abutting lots, the owners' names and property lines of adjoining properties not subdivided and the locations, names and widths of existing streets and alleys and similar facts regarding property that is immediately adjacent.**
- f. **Location, extent and width of all existing easements and rights-of-way of record, roadway widths, public sites and utility installations. Size and grades of water and sewer lines, culverts or other subsurface structures within the tract and immediately adjacent thereto shall be shown when specifically required by the Planning Department.**
- g. **Proposed divisions to be created, including right-of-way widths, roadway widths, proposed utility installations, lot lines with dimensions and angles where other than 90 degrees, sites reserved or dedicated for public uses and sites for other principal uses.**
- h. **Proposed street names for both public and private streets. (Amendment adopted December 16, 1986)**
- i. **The title, scale, north arrow, date of plan preparation and revision (if any), name of subdivider, name of owner and name of engineer or surveyor together with his North Carolina registration number.**

- j. All existing physical features of the land, including contours, drainage ditches, water courses, buildings, streets and wooded areas. The contour interval shall be two feet unless otherwise approved during pre-application conference by the City Engineer and the Planning Director. All contour information shall be based on sea level datum and shall be accurate within one-half foot. The bench mark, with its description and the datum, shall be clearly shown on the plan.
- k. General drainage features.
- l. If individual sewage disposal systems are to be used, the lots shall be evaluated by current state and Alamance County Health Department regulations. (Amendment adopted June 21, 1994)
- m. Distances to nearest public water supply and sewerage system.
- n. All parcels of land intended to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision or reserved in any manner for any other purpose, together with the purposes of conditions or limitations of such reservations, if any.
- o. All preliminary plans shall conform to the Burlington Comprehensive Plan, to the probable development and/or to an approved preliminary plan or final plat of adjacent properties, to the existing street system and to the Burlington Thoroughfare Plan.

2. **Data**

- a. **Water Supply and Sewage Disposal System Data:** Where individual water supply and sewage disposal systems are to be used, all requirements of the Alamance County Board of Health are to be met. Two copies of the preliminary plan shall show proposed locations of water supplies and sewage disposal facilities, and certification shall be made by the Health Director of the Alamance County Health Department that the locations of water supply and sewage disposal systems as shown are approved.

- b. All preliminary plans shall be accompanied by street plans and profiles and a detailed drainage plan, and such data must accompany the preliminary plan unless the Planning Commission approves, upon recommendation of the Planning and Engineering Departments, postponing these requirements by establishing a contingency on the approval of the preliminary plan. If such a contingency does accompany preliminary plan approval, no construction may commence until such plans and data are submitted to and approved by the Engineering Department. Data submitted shall be as follows: (Amendment adopted September 1, 1981)
1. Four copies of street plans, profiles and typical cross sections shall be submitted with the development plan. The street plans and profiles shall show the existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision. The proposed typical cross sections for the entire right-of-way widths of proposed streets shall be shown. The vertical and the horizontal profile scales shall be one inch equals two feet and one inch equals 20 feet or one inch equals four feet and one inch equals 40 feet or one inch equals five feet and one inch equals 50 feet, respectively. The bench mark with its description and datum shall be clearly shown on the profile sheet. The street plans shall show curve data for all proposed curves including Delta angle, the degree of curve, the radius and indication of whether the arc method or chord method was used.
  2. The street plans and profiles shall be accompanied by a drainage plan showing proposed grades and cross sections of ditches and proposed pipe and ditch sizes for the entire tract or parcel. This drainage plan shall be accompanied by a copy of drainage area computations based on the Rational Method together with Manning formula for open ditches and Talbot's formula for pipes. The intensity of rainfall shall be determined from drainage area calculations that utilize an appropriate intensity/duration hydrology chart for this area. Computations shall be made at all manholes and at intersection points of storm drains and ditches.

c. **Special Conditions**

1. **Protective Covenants:** A draft of proposed protective covenants, if applicable, shall be submitted as a separate exhibit along with the preliminary plan.
2. **Inspections:** Every site proposed for a subdivision shall be inspected by the staffs of the Planning Department and City Engineering prior to approval of the preliminary plan.

(c) **Final Plat and Data**

1. **Plat:** A final plat shall conform substantially to the approved preliminary plan. The original of the final plat shall be drawn in ink on tracing cloth (linen) or on mylar, chronoflex or equivalent drafting film. Paper shall not be used. A sheet size of 18 inches by 24 inches shall be observed, and the final plat shall be drawn at a scale within the range of one inch equals ten feet and one inch equals 100 feet. When necessary, the plat may be on several sheets accompanied by an index sheet or key map insert on each sheet showing the entire subdivision and showing appropriate match lines; however, under certain conditions, a scale of one inch equals 200 feet may be allowed with prior approval by the Planning Department staff. (Amendment adopted March 17, 1992)
2. **Data:**
  - a. The title of the subdivision or property designation; the name of the owner; location by township, municipality, county and state; the date or dates of surveys; the scale in feet per inch in words and/or in figures and bar graph; and the north arrow.
  - b. The name, address, registration number and seal of the registered land surveyor.
  - c. A certificate by the professional engineer or surveyor showing that the plat was prepared at the request of the property owner or his duly authorized agent, that the plat was drawn by him or under his supervision, the degree of accuracy of closure of the perimeter of the subdivision and the accuracy of the interior survey and platting, that all required improvements are installed and that all required monuments and markers are installed. The certificate shall be signed by the registered land surveyor.

- d. A statement signed by the property owner dedicating to the public forever all indicated streets, rights-of-way, easements and any other sites for public use. If any change in ownership is made after submission for approval of the Final Plat and prior to the granting of such approval, the statement of dedication shall be corrected accordingly.**
- e. The courses and distances of the perimeter of the land involved referenced to a known point or points and to required control corners which shall be shown by location and description on the Final Plat. The courses shall be marked as to whether they are actual field observations or computed courses.**
- f. Location of all control corners and permanent monuments therefor.**
- g. All property lines with accurate bearings. If a control traverse is run between any two points on any property line, this shall be noted on the Final Plat.**
- h. The acreage of the land involved.**
- i. Names of adjacent landowners and streets together with all intersecting boundaries or property lines.**
- j. Location and description of all sites reserved or dedicated for public use.**
- k. Approved street names for both public and private streets. (Amendment adopted December 16, 1986)**
- l. Location and widths of all rights-of-way, roadways and utility and drainage easements.**
- m. Final curve data for all curves including the Delta angle, the degree of curve, the tangent distance, the length of curve, the radius and the arc and chord.**

- n. The location of all points of curvature and tangency.
- o. The location of points of intersection where circular curves are not used.
- p. Lot and block identification. Continuous lot number and block letters shall be shown. Lot numbers shall be numerical, and block letters shall be alphabetical.
- q. A copy of protective covenants in recording form and signed by proper parties shall be submitted, if applicable, with the final plat.
- r. A statement signed by the subdivider attesting that easements and/or rights-of-way for all necessary off-site sewer outfalls or other facilities have been obtained and recorded.

**(d) Final Construction Drawings**

It shall be the responsibility of the subdivider to provide one mylar copy of all construction drawings of record to the City Engineer. Such drawings shall include, but not be limited to, locations of all streets, storm drainage facilities, sidewalks, water and sewer lines and right-of-way monuments and markers, etc., that will provide a permanent record of all improvements installed during construction. Such drawings shall be delivered to the City Engineer no later than 30 days following final inspection approval. (Amendment adopted April 2, 1985)

**SECTION 33.8: DESIGN STANDARDS**

- (a) **Location:** No subdivision or platting of land for residential use shall be permitted in areas subject to flooding by normal rainfall, river or stream flooding, swamps or other factors unless suitable provision is made for satisfactory drainage. The drainage system shall be designed to ensure that 2 1/2 inches of water will be drained from any given area within 24 hours, assuming a 100% runoff. Further, no lot, however provided with satisfactory drainage, may be created so as to permit or encourage construction of buildings contrary to the provisions of a resolution of the City Council of Burlington adopted March 4, 1975, authorizing compliance by the City of Burlington with the National Flood Insurance Program regulations. All subdivision proposals shall be reviewed to assure that all such proposals: (1) minimize flood damage; (2) assure that public utilities and facilities are constructed so as to minimize flood damage; and, (3) so that adequate drainage is provided, all in accordance with the Floodplain Ordinance of the City of Burlington. Base flood elevation data shall be provided for all subdivisions having 50 or more lots or including five or more acres. (Amendment adopted November 19, 1989; effective April 1, 1981)

**(b) Streets**

- 1. A layout of streets as to arrangement, width, grade character and location shall conform to the latest Comprehensive Plan and Thoroughfare Plan in effect to adjoining street systems both planned and proposed, to topographic conditions, natural features and drainage systems to be provided and to the public convenience and safety.**
- 2. Local access streets shall be so laid out that their use by through-traffic is discouraged.**
- 3. Intersecting streets shall be laid out at such intervals that block lengths are not more than 1,100 feet except where, in the opinion of the Planning Commission, subject to final approval by the City Council, existing conditions justify a modification of this requirement.**
- 4. Where a subdivision abuts or contains an existing or proposed expressway or major thoroughfare, the Planning Commission and/or City Council may require frontage streets, reverse frontage with screen planting, deep lots or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.**
- 5. Reserve strips or parcels controlling access to streets shall be prohibited.**
- 6. Street jogs with centerline offsets of less than 125 feet shall be prohibited.**
- 7. When connecting street lines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve having a radius of not less than 100 feet for minor thoroughfares and of such greater radii as the Planning Commission recommends and the City Council may require, upon recommendation of the Planning and Engineering Departments.**



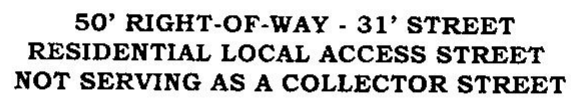
8. **Streets shall be laid out so as to avoid acute angles between streets at their intersection except where consideration of traffic flow and geometric design requires merging streets.**
9. **Property lines at street intersections shall be shown as a chord connecting points not less than 15 feet back from the street intersection along each street right-of-way line. Longer setbacks for chord connections for property lines may be required by the Planning Commission and/or the City Council when advised by the Planning and Engineering Departments that such design is advisable.**
10. **Half streets along property lines shall be prohibited except that whenever a half street already exists adjacent to a tract to be subdivided, the other half of the street shall be platted within the tract to be subdivided.**
11. **Alleys shall be permitted only in multifamily, commercial and industrial areas where required to provide for service access such as off-street parking, loading and unloading consistent with and adequate for the uses proposed. Such alleys shall be at least 22 feet in width and shall permit safe and through vehicular movement.**
12. **No permanently designed dead-end street (cul-de-sac) shall be longer than 800 feet except where land cannot otherwise be subdivided practicably. All permanent dead-end streets (cul-de-sacs) shall be provided at the closed end with a turn-around having a street property line diameter of not less than 100 feet and a street pavement diameter of not less than 75 feet from back of curb to back of curb. Dead-end streets intended to be continued at a later time shall be provided with the same turn-around as required for a permanent dead-end street, but only that portion to be required as right-of-way when the street is continued shall be dedicated and made a public street.**
13. **No street names shall be used for either public or private streets that will duplicate or be confused with the names of existing streets. Street names proposed by the subdivider shall be subject to check by the Planning Department, and when duplication or confusion occurs, the Planning Department shall require the subdivider to substitute names free from duplication and confusion. The Planning Department shall maintain an up-to-date file of all street names in use in the City and county for the guidance of subdividers. (Amendment adopted December 16, 1986)**

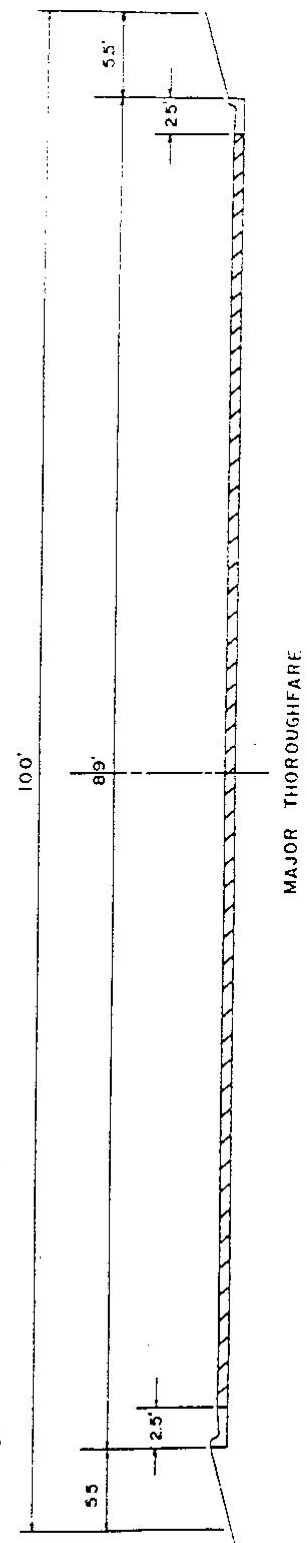
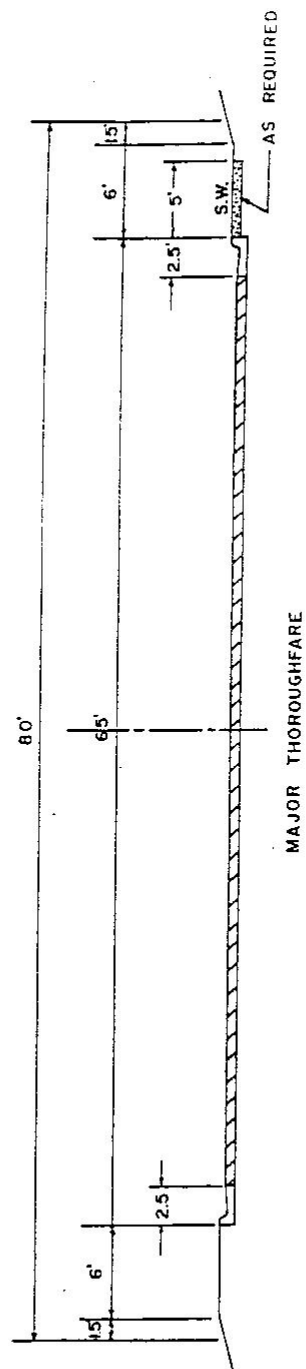
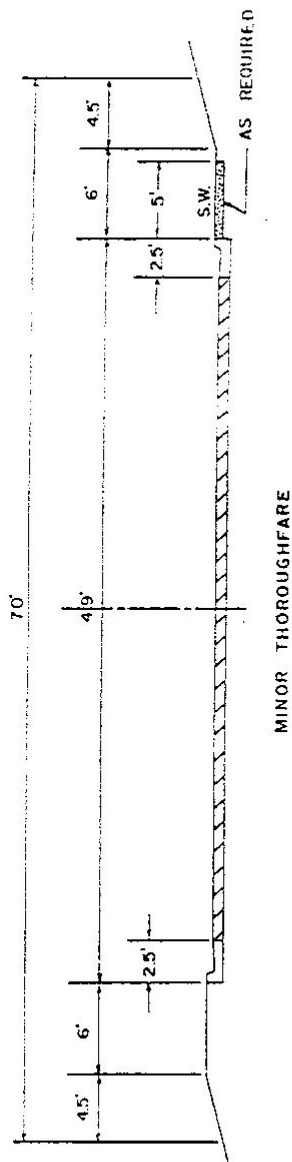
14. A tangent of at least 150 feet shall be introduced between reverse curves on major thoroughfares. On minor thoroughfares, such tangent length shall be not less than 100 feet. For local access streets, such tangent length shall be not less than 60 feet.
15. Street curves shall have the following minimum radii:
  - Major thoroughfares - 600 feet
  - Minor thoroughfares - 400 feet
  - Local access streets - 100 feet
16. Street and intersection approaches shall not have grades in excess of three percent for a distance of 100 feet from the intersection of center lines in all directions for all streets. Streets shall have grades at all other points not greater than six percent for expressways, major thoroughfares and minor thoroughfares and not greater than 12 percent for local access streets. No grade shall be less than five-tenths of one percent in the gutter profile. Variation from these grades may be permitted by the Planning Commission upon recommendation of the City Engineer but only to allow adjustment of severe topography.
17. All changes in grade of expressways, major thoroughfares and minor thoroughfares shall be connected by vertical curves of a minimum length equivalent in feet to 32 times the algebraic difference in the percents of grade. All changes in grade of other streets shall be connected by vertical curves of a minimum length of 40 times the algebraic difference in the percents of grade.

**18. Minimum street right-of-way widths shall be as follows:**

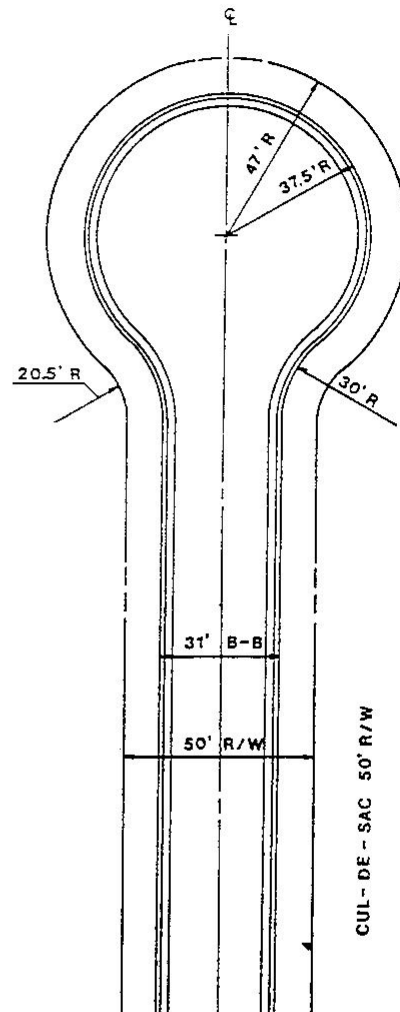
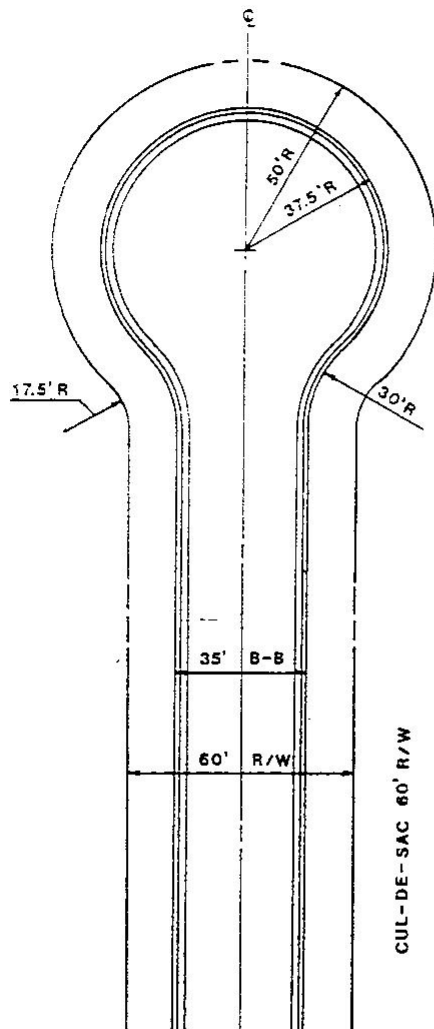
<b><u>Type of Street</u></b>	<b><u>Minimum Right-of-Way (in feet)</u></b>
<b>Local access street</b>	<b>60 feet</b>
<b>Cul-de-sac</b>	<b>50 feet</b>
<b>Minor thoroughfare</b>	<b>70 feet</b>
<b>Major thoroughfare depending upon design</b>	<b>80 to 100 feet</b>

**19. Streets shall be designed and constructed to the following minimum cross sections and plans:**





### TYPICAL STREET CROSS SECTIONS



**TYPICAL CUL-DE-SAC PLAN**

**(c) Easements**

- 1. Easements for drainage or utilities may be required where necessary. Such easements shall be placed along side and/or rear property lines where practicable. Redesign of the lot arrangements may be required to meet extreme conditions.**
- 2. Where alleys are not provided, easements (of not less than five feet in width) shall be provided on each side of all rear lot lines where necessary or in such other locations as may be directed by the Planning Commission and/or the City Engineer for poles, wires or conduits for electrical utilities and/or telephone services. Easements of greater width may be required along the lines of or across lots where necessary for storm drainage, channels, surface overflow or for the extension of main sewers or similar utilities and when necessary for adequate separation of specific utilities.**
- 3. Easements, when required for drainage of the area to be subdivided, shall be of such width as is necessary to permit proper construction and maintenance of the drainage facilities required to drain the area properly. Drainage easements shall be of a minimum width of 10 feet, provided, however, that easements up to 50 feet may be required if, in the opinion of the City Engineer, such easements are necessary in the public interest.**
- 4. Easements shall center along or be adjacent to a common property line where practicable.**
- 5. No subdivision shall block or obstruct the natural drainage of an adjoining area. Provision of drainage facilities to maintain the established flow of off-site water through any property to be subdivided shall be the responsibility of the subdivider.**
- 6. Existing natural drainage shall be retained or adequately relocated.**
- 7. All easements for drainage or utilities shall be cleared of undergrowth, trees and other obstructions prior to approval of the final plat unless the City Engineer certifies in writing that such clearance is unnecessary. Clearance is not required for easements that are provided for possible future use.**

**(d) Sidewalks**

- 1. Concrete sidewalks shall be required as follows:**
  - a. Where required by the City Council in special circumstances or in accordance with a duly adopted sidewalk plan.**
  - b. On those streets designated as major thoroughfares, minor thoroughfares and frontage streets on the Burlington Thoroughfare Plan.**
  - c. Wherever needed to provide for a high volume of pedestrian traffic, especially along streets leading to schools that service the subdivision involved.**
  - d. Sidewalks shall meet established construction standards as administered by the City Engineer.**
  - e. A public crosswalk or pedestrian way not less than ten feet wide may be required near the center and entirely through excessively long blocks and at the end of cul-de-sacs to provide pedestrian access to one of the surrounding streets.**

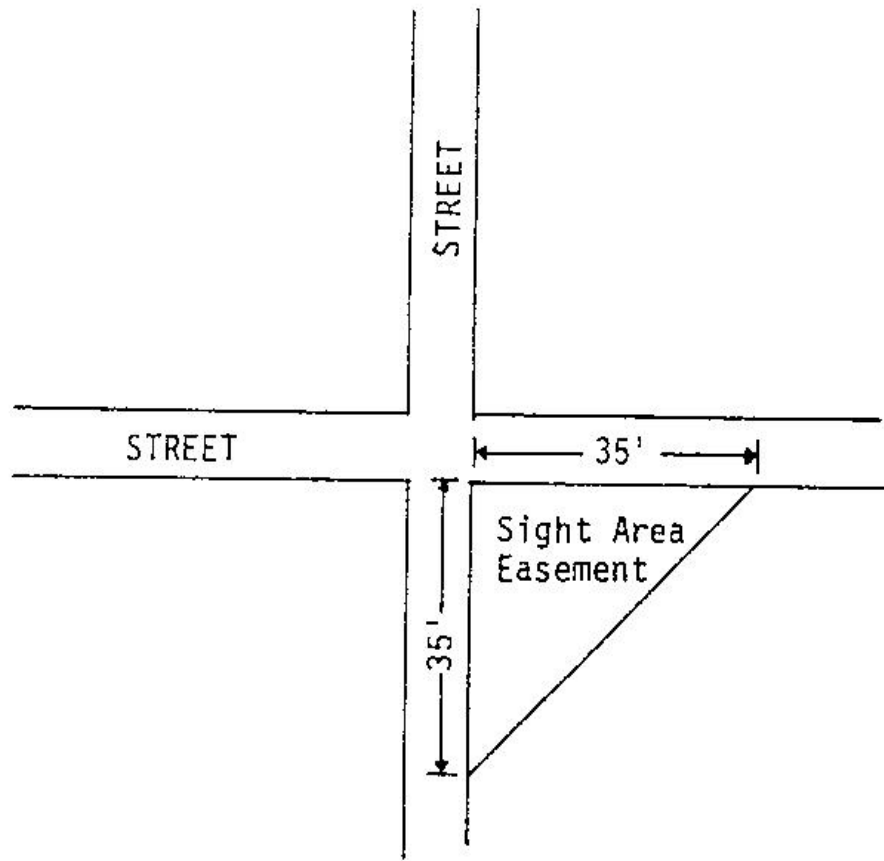
**(e) Lots**

- 1. The size, width, depth, shape, orientation and minimum setback lines of lots shall be as required by this chapter and by the Zoning Ordinance for the City of Burlington and shall be appropriate for the location of the subdivision and for the type of development and use contemplated.**
- 2. Lot depth normally shall not exceed two and one-half times the lot width established in accordance with this chapter and, except in case of unusual topographic conditions, shall never exceed four times that width. This provision shall not apply where the width of a lot equals or exceeds 300 feet for its entire depth.**
- 3. The minimum width of a residential lot shall be 50 feet for at least two-thirds of the depth of the lot.**
- 4. The minimum frontage of any lot at the right-of-way line shall be 30 feet.**



5. A residential lot that will be served by a governmental water system and a governmental sewerage system shall have a minimum area of 6,000 square feet.
6. The Alamance County Health Department shall evaluate proposed and/or existing sewer facilities on lots ten acres or less that are not served by governmental water and/or sewerage systems. The following shall apply: (Amendment adopted June 21, 1994)
  - a. New subdivision lots without existing sewer systems shall be evaluated by current state and Alamance County Health Department regulations.
  - b. New subdivision lots with existing sewer systems shall be evaluated for visual malfunctioning. Malfunctioning systems shall be repaired prior to subdivision plat approval. New property lines shall meet current minimum setback requirements or an easement for the sewer facilities must be shown on the plat.
7. Lots being reduced in size by partial combination with adjoining property shall be evaluated by the criteria in Section 6, Paragraphs a. or b., as appropriate. (Amendment adopted June 21, 1994)
8. Lots in watershed areas that must have an individual (on site) water supply and sewage disposal system shall be evaluated by current state and Alamance County Health Department regulations and/or other agencies governing the protection of public water supplies. (Amendment adopted June 21, 1994)
9. Corner lot dimensions shall be large enough to allow for erection of buildings without encroaching upon the minimum required setbacks from both streets or the established vehicle sight area easement at the intersection. This sight easement shall be that triangle formed by the intersecting right-of-way lines adjacent to each corner lot and a line across the corner of the lot between points 35 feet from the street intersection along each street right-of-way.

Within this easement, no building, no earth bank, no vegetation and no other obstruction shall be allowed that is more than three feet in height above the finished centerline grade of the road. In lieu of providing a sight area easement, the owner may dedicate said area as part of the street right-of-way. An example of such design is shown below:



10. Lots that have double frontage (through lots) shall be prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. An easement of at least ten feet in width across which there shall be no right of access to the abutting street shall be required along the rear street property lines of lots abutting such a traffic artery or other disadvantageous use. No right of access across such required easements shall be granted except upon resolution of the Planning Commission and/or approval by the City Council.
  11. All lots shall be provided, by means of streets that have been constructed in conformance with the standards and specifications of the City Engineering Department and/or the North Carolina Department of Transportation and dedicated in accordance with this chapter, with access to an existing street that has been accepted for maintenance by the State of North Carolina or the City of Burlington. Where private streets have provision for continual maintenance and are constructed to City or State standards (depending upon jurisdiction) within a minimum 60-foot right-of-way and are controlled by a responsible association, club, fellowship or corporation, requirements as to dedication may be waived by the Planning Commission and/or the City Council.
  12. All quadrangular lots, and insofar as practical, all other lots, shall have side lines that are at right angles to straight street lines and radial to curved street lines.
  13. Lots for other than residential use shall include sufficient space for off-street parking, loading and unloading and circulation of traffic.
- (f) Public Site and Open Spaces: Where a proposed park, playground, open space or school is designated in the Burlington Comprehensive Plan and is located in whole or in part within a subdivision, the Planning Commission may require the dedication or reservation of such area within the subdivision as a condition to any approval in cases in which such requirements are in the public interest. Such requirement for dedication shall be in accordance with introductory paragraphs in Section 33-7 above and Section 33-10 below.

- (g) **Utilities:** All electric, telephone and other utilities shall be placed underground in all subdivisions created after the date of adoption of this chapter. Such installations shall be made in accordance with required standards and accepted practices of the utility provider.
- (h) **Subdivision Name:** Every subdivision shall be given a name that shall not duplicate or closely approximate that of any other subdivision existing or previously planned.

### **SECTION 33.9: REQUIRED IMPROVEMENTS**

All improvements under this chapter shall be completed prior to submission and request for approval of the final plat except as provided in Section 33-6, Paragraph 3. above.

#### **(a) Markers.**

1. Markers shall be placed at lot corners as specified below:
  - a. A reinforced concrete marker shall be set on the right-of-way line on at least one lot corner (on each side of the street) near the ends of each block. In addition, points of curvature and points of tangencies will be referenced with concrete markers at the nearest corner lots on the right-of-way lines (on each side of the street). The distance from the point of curvature and the point of tangency to these lot corner markers will be shown on the final plat. Concrete markers shall be a minimum of three feet long and have a minimum cross sectional area of nine square inches. They shall protrude above the ground not more than six inches.
  - b. All interior lot corners or other points not requiring concrete markers as in this section shall be marked with an iron pipe or pin having a minimum diameter of three-fourths of an inch. Such iron pins shall be a minimum of three feet in length and shall extend above the ground approximately ten inches.
2. Markers shall be installed prior to the submission of the final plat, and no final plat shall be approved until it has been determined by the Planning Commission that all required markers have been installed.

3. The location and type of all markers used shall be indicated on the final plat.

**(b) Utility, Drainage and Street Improvements**

1. Utility, drainage and street improvements shall be as required by this chapter, the City Engineer, the Planning Commission and the City Council.
2. No road improvements shall commence until the Planning Commission has received the written approval of the City Engineer and Planning Director and has given approval to the preliminary plan, and all improvements thereafter shall conform substantially to the preliminary plan.
3. All streets shall be improved to the full width and to the cross section and profile under such specifications as are above prescribed including street paving, curbs and gutter, sidewalks and other improvements and shall be to the width, cross section and profile as required above.
4. The subdivider shall provide the subdivision with a governmental water supply where governmental water supply is available within 1,000 feet of the property.
5. The subdivider shall provide the subdivision with a governmental sanitary sewerage system where a governmental sanitary sewerage system is available within 1,000 feet of the property.
6. Water mains and sanitary sewers shall be of such materials and shall be located and installed under such specifications as prescribed by the City.
7. Approved City street name signs shall be installed on the northwest and southeast corners of every intersection.
8. All drainage facilities shall be constructed as required at the time of preliminary plan approval.
9. Storm sewers, drains and structures installed by the subdivider shall be installed of a size and type and in locations as shall be approved by the Planning Commission upon recommendation of the City Engineer.

10. The City shall not be responsible for any internal subdivision drainage connections to publicly maintained drainage facilities, streams or other outlets having constant flow.

This does not imply that the subdivider will be responsible for the maintenance of these facilities after they have been dedicated to the City.

**SECTION 33-10: MISCELLANEOUS**

- (a) **Planned Unit Development:** Any tract of land of ten acres or more (depending upon the zoning district in which it is located) may be designed and developed as a Planned Unit Development as permitted in Section 32.13, Paragraph G, of the Zoning Ordinance of Burlington, North Carolina. Such developments shall meet all design requirements of the Zoning Ordinance and, where not specified in the Zoning Ordinance, shall meet design requirements of this chapter. In all cases, all procedural requirements and design standards of this chapter shall be met.
- (b) **Density Bonus Developments:** All subdivisions of land involving a recreation and/or open space site as specified in the Comprehensive Plan for Burlington shall require reservation of such sites in an amount in acreage as required in the Comprehensive Plan, such reservation to be in accord with Section 33-7(c)2.d. above. As an alternate procedure, the subdivider may dedicate recreation and/or open space sites at no cost to the City and may receive the following design density bonus concessions:

**1. Mandatory Reservations**

- a. The subdivider may include the amount of dedicated land in the calculation to determine the maximum number of lots to be permitted on the land remaining after deletion of the dedicated land and the subtraction of the area included in street rights-of-way, provided, however, that the resultant overall increase in density shall not exceed 30 percent of that normally permitted in the zoning district in which the subdivision is to be located, that individual lots may not be reduced more than 30 percent in area required nor more than 10 feet in width required in the zoning district in which the subdivision is located, and that in no case shall lots be reduced below the area and frontage required in the R-6 zoning district.

- b. The subdivision may be designed with local access streets having rights-of-way of 60 feet developed in accordance with the provisions of Section 33-8 of this chapter.**
- c. If the subdivider does not desire to apply the foregoing density bonus provisions to a subdivision in which he dedicates a park or open space site at no cost to the City, he may transfer the percentage density bonus to any other subdivision, provided, however, that in no case shall the increased overall density exceed that allowed in the residential zoning district next lower than that in which the subdivision is located. In calculating density for the subdivision to which the density bonus is transferred, any dedicated sites plus street rights-of-way may be included to establish the maximum allowable number of lots, subject, however, to the maximum increase in density of 30 percent of that normally permitted in the zoning district in which the subdivision is located and subject to the maximum reduction of 30 percent in lot area and 10 feet in lot width.**
- d. A subdivider may transfer density bonus benefits and rights to more than one subdivision until benefits and rights accrued in a previous subdivision are equaled but not exceeded, subject to Subsection g. below.**
- e. The location of all sites to be dedicated for recreation and/or open space purposes shall be approved by the Planning and Recreation Commissions and/or the City Council.**
- f. No recreation and/or open space site to be dedicated shall be less than one acre.**
- g. Density transfer rights permitted herein shall be void after a lapse of two years from the date of the last final approval of a portion of a subdivision in which density bonus provisions were accrued.**

## **2. Optional Dedications**

- a. Any subdivision not involving a recreation and/or open space site, as required in the Comprehensive Plan, may provide at the option of the subdivider for the dedication of recreation and/or open space land at no cost to the City and may develop the subdivision under the provisions of Subparagraph a. immediately above, observing the same requirements and restrictions and accruing the same benefits and rights provided, however, that in the case of such optional dedication, a recordable plat dedicating the recreation and/or open space shall be presented to the Planning Commission along with the preliminary plan.

### **(c) Hardships and Variances**

1. Where extraordinary hardships may result from strict interpretation of this chapter, the Planning Commission and/or City Council may vary this chapter so that substantial justice is realized and the public interest is protected provided that such variance does not have the effect of nullifying the intent and purpose of the Comprehensive Plan for Burlington and its jurisdiction or the objectives of this chapter.
2. The subdivider shall submit a petition stating clearly and definitely the reason for a request of variance. Consideration will be given based on the following factors only:
  - a. Special conditions affecting the physical property.
  - b. Undue developmental hardships that will result from ordinary adherence to the requirements.
  - c. A determination that the granting of a variance shall not be detrimental to adjacent property or to the public interest.
3. When subdivision plans have been submitted to the Planning Commission and the City Council and have been duly approved and are then submitted to agencies of the federal government and such agencies require changes in the subdivision plan as mandatory prior to their approval for mortgage guarantees, such mandatory changes shall be accepted by the Planning Commission and the City Council as prima facie evidence of a hardship, and the changes will be accepted under the provisions of the section unless such changes would be a clear violation of the intent of this chapter and the Burlington Comprehensive Plan.



**(d) Penalty**

- 1. Any violation of this chapter or amendments thereof shall be a misdemeanor under the laws of the State of North Carolina, and the offender, upon conviction, shall be punished as for a misdemeanor. Each day that any violation of this chapter exists shall constitute a separate offense. Any person, firm or corporation violating the provisions of this chapter shall be guilty of a misdemeanor and punished as provided by North Carolina General Statutes, Section 14-4, and shall be fined not more than \$500.00 or imprisoned for not more than 30 days and shall be further subject to the provisions of G.S. 160A-175. (Amendment adopted October 1, 1991)**
- 2. Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the City of Burlington, hereafter subdivides land in violation of this chapter or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such ordinance and recorded in the office of the Register of Deeds for Alamance County shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The City, through its attorney or other official designated by the Council, may enjoin illegal subdivision, transfer or sale of land by action for injunction.**

**(d) Amendment**

- 1. Amendments to this chapter may be proposed by the Planning Department, the Planning Commission and/or the City Council and shall be submitted to the Planning Commission for approval before being enacted. Other persons or entities may submit proposed amendments to the Planning Commission for consideration and recommendation to City Council.**
- 2. The City Council of Burlington, North Carolina, may adopt amendments to this chapter, providing that a public hearing thereon shall first be held, public notice of which hearing shall be given at least ten days prior to such hearing.**

3. No amendment failing of passage at its first public hearing by the City Council shall be resubmitted for a period of one year, except upon approval by City Council for urgent reasons of public interest.

(f) Repeal

Chapter 33, SUBDIVISIONS, of the Burlington City Code as existing on the date of this chapter, is hereby repealed.

(g) Separability

Any clause or provision of this chapter declared invalid by any court having jurisdiction shall not affect the validity of this chapter as a whole or any other part thereof.

(h) Effective Date

This chapter shall take effect and be in force from and after its adoption.

THEREFORE, BE IT RESOLVED that the City Council of the City of Burlington, North Carolina, does hereby ordain, resolve and enact the foregoing Land Subdivision Ordinance.

Adopted this 21st day of August, 1979.